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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/522,361

01/26/2005

Andreas Hilgert

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01/22/2009

BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP

ATTN: IP DEPARTMENT DOCKET CLERK

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CLEVELAND, OH 44114

EXAMINER

HOOK, JAMES F

ART UNIT

PAPER NUMBER

3754

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,361	<b>Applicant(s)</b> HILGERT, ANDREAS	
	<b>Examiner</b> James F. Hook	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-19 is/are pending in the application.
- 4a) Of the above claim(s) 3,10,11,13 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8,9,12 and 14-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 2, 4-9, 12, and 14-18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3-5, 12, 13, 16, 18, and 19 of U.S. Patent No. 7,328,920 in view of Millar. The 920 patent discloses all of the recited structure with the exception of disclosing a sealing bushing being provided which is elastic. The reference to Millar discloses that it is old and well known to either form a connector 4 around a corrugated hose 1 with a sealing insert 8 or without one. It would have been obvious to one skilled in the art to modify the 920 patent by providing a sealing insert to provide further sealing properties between a corrugated tube and connector as suggested by Millar where such is an equivalent

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sealing structure provided to help prevent leaking at the connection thereby saving money in repair, replacement, or loss of material carried by the tube and where such seal would space the corrugated hose from the connector.

Claims 1, 2, 4-9, 12, and 14-18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3-5, 12, 13, 16, 18, and 19 of U.S. Patent No. 7,328,920 in view of Kanao (832). The 920 patent discloses all of the recited structure with the exception of disclosing a sealing bushing being provided which is elastic. The reference to Kanao discloses that it is old and well known to form a connector 2 around a corrugated hose 3 with a sealing insert 6 that is elastic and formed such that the hose is spaced from the connector structure. It would have been obvious to one skilled in the art to modify the 920 patent by providing a sealing insert to provide further sealing properties between a corrugated tube and connector as suggested by Kanao where such is an equivalent sealing structure provided to help prevent leaking at the connection thereby saving money in repair, replacement, or loss of material carried by the tube.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-6, 8, 9, 12, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luft (953) in view of Kanao (832). The reference to Luft discloses the recited corrugated hose assembly, where the use of such for cooling devices in motor vehicles is considered merely intended use, comprising a corrugated hose 5 with corrugations which are at least annular as seen in figure 1 which are spaced from one another, a covering 2,8 which encloses the corrugated pipe with the exception of at least one end section near 27, a mount 39 has a first tubular part near 38 and a second tubular part near swaged portion "F", there are passages and openings to receive portions of the corrugated pipe and covering, a conduit 33 is connected with the mount in a fluid tight manner, a sealing bushing 34 is located in the first tubular part, the tubular part is a metal pipe which is deformed into a shape at the end near 1 at the stepped portion, and is also deformed in the second section at indentations "F", the bushing creates a seal by contacting a portion of the corrugations near 27 and an inner wall of the first portion of the mount in a press fit manner, the stepped portion of the mount near 1 is considered to be plastically deformed, where the stepped in portions forms a ring section where the method used to achieve this has not patentable weight on the article claim language, it is considered that the material the bushing is made from is able to be deformed and therefore can be deformed plastically or elastically if desired, the bushing is made of a single material and forms a closed connection between the corrugated pipe and the first part, the corrugated pipe is connected with the conduit means 33, the first and second part is connected as one piece, the second part is in form closed engagement with the covering, the second part

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is pressed together with the covering at least at portion "F", where the second part has an inner profile where the indentations "F" extend inside of the second part. The reference to Luft discloses all of the recited structure including that the bushing member 34 spaces the sleeve 38 from the corrugated tube 6 so that they don't touch, with the exception of forming the sealing bushing 34 of an elastically deformable material. The reference to Kanao discloses that it is old and well known in the art to form spaced sealing bushing members of elastic material to better grip and seal the sleeve to the corrugated conduit. It would have been obvious to one skilled in the art to modify the bushing in Luft by substituting an elastically deformable material as suggested by Kanao where such would provide a better seal and prevent slippage due to the inherently properties of an elastomeric material thereby saving money in replacement or repair costs.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Luft (953) in view of Kanao (832) as applied to claims 1, 2, 4-6, 8, 9, 12, and 14-17 above, and further in view of Ingram. The reference to Luft as modified discloses all of the recited structure with the exception of providing a hose inside the corrugated pipe. The reference to Ingram discloses that it is old and well known in the art to provide a corrugated pipe 42 with a hose structure 10 in an equivalent type hose provided with a corrugated pipe 42, mount 16,18. It would have been obvious to one skilled in the art to modify the corrugated pipe in Luft as modified by providing such with hose in the corrugated pipe section to provide additional sealing properties as suggested by Ingram as such is an equivalent structure provided to the same type of hose structures which

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would provide additional sealing properties to help prevent leaks and save money due to losses in conveyed materials.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 2, 4-6, 8, 9, 12, and 14-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The reference to Lefere disclosing a state of the art connector corrugated hose structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James F. Hook/  
Primary Examiner, Art Unit 3754

JFH